

## JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Acquisition Operations  
Technology Acquisition Center  
23 Christopher Way  
Eatontown, New Jersey 07724
2. Description of Action: The proposed sole source action is for a firm-fixed price contract with Capital Solution Design (CSD), LLC, 1061 North George Mason Drive, Arlington, Virginia 22205 for the renewal of CSD brand name Behavioral Health Lab (BHL) software maintenance and technical support for existing BHL software in use throughout VA.
3. Description of Supplies or Services: VA, Veterans Health Administration (VHA), Office of Mental Health Services, Veterans Integrated Service Network (VISN) 4, Mental Illness Research Education and Clinical Center (MIRECC), has a requirement for the renewal of software maintenance and technical support for existing brand name CSD BHL software used throughout VA for delivering evidence-based and measurement-based mental health care within various clinical settings with a focus on supporting integrated primary care/behavioral health care. This software is currently installed in 108 VA sites and provides for regular structured assessments to monitor patient progress and determine when treatment adjustments or additional resources are needed to ensure Veterans are contacted and monitored on a regular basis. This software also provides clinical program informatics support that allows for tracking patients over time, monitoring patients' symptoms, and accessing patient and program level data. The required software maintenance shall consist of all minor updates, patches, fixes, and security resolutions developed by CSD. The technical support services are required via email, telephone, or web portal, and shall provide for the analysis, troubleshooting, and resolution of any software product-related problems or questions encountered by Government users with the CSD software products. In addition, the contractor shall provide technical support for site audits, site inspections, backup, and security issues to be handled through a help desk service operating Monday through Friday, 9:00AM until 5:00PM Eastern Standard Time. These software maintenance and technical support services will ensure the current software is continually updated and remains fully operational. The total estimated price of the proposed action is REDACTED, inclusive of a 12-month base period and two 12-month option periods for continued software maintenance renewal and technical support.
4. Statutory Authority: The statutory authority permitting other than full and open competition is 41 U.S.C. 3304(a)(1) as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-1 entitled, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements."
5. Rationale Supporting Use of Authority Cited Above: BHL software is a commercial-off-the-shelf software package designed and developed by CSD in

collaboration with VISN 4 MIRECC in 2004. However, the software was not designed and developed in its entirety under contract with VA. The software's programming code was written by CSD based on the clinical guidance and best practices of VA. Therefore, the clinical intellectual property is retained by the Philadelphia VA Medical Center (VAMC), while the source code is owned by CSD, who grants the Philadelphia VAMC the right to install, use, and distribute the BHL software application throughout VA. Only software maintenance and technical support provided by CSD can meet the requirements as the existing software source code is proprietary to CSD. Specifically, without access to CSD's proprietary source code, no other source is able to provide software updates, patches, fixes, updates, security resolutions, help desk services, and ensure these services are properly configured. Without the required software maintenance and technical support, the existing BHL software performance would eventually degrade and would not be usable by VA. In addition, VA would not receive security updates, which could compromise VA's network security posture. Additionally, since the software source code is proprietary, no other source exists that can provide analysis, troubleshooting, and resolution of any software product-related problems other than CSD. CSD does not have an affiliation or agreement in place with any authorized resellers for the subject software maintenance and technical support, therefore CSD is the only responsible source that can satisfy the Government's requirements. The Contract Specialist contacted BHL in August 2016 to ascertain if BHL was willing to sell their proprietary source code to VA. BHL responded that although they haven't previously considered it, they may be willing to sell their code to VA, and provided an estimate of \$20,000,000.00. VHA conducted a cost benefit analysis, the results of which determined it is not in VA's best interest to procure the source code. Specifically, VHA does not currently anticipate using the software long enough where the benefits of procuring the code would outweigh the costs.

6. Efforts to Obtain Competition: Currently, no other companies other than CSD can provide the required software maintenance and technical support for VA's existing BHL licenses. Market research was conducted, details of which are in section eight of this justification. This effort did not yield any additional sources that can meet the Government's requirements. There is no competition anticipated for this acquisition and the proposed action will be synopsized on the Federal Business Opportunities Page (FBO) in accordance with (IAW) FAR 5.201. Additionally, IAW FAR 6.305(a) this Justification and Approval for Other Than Full and Open Competition will be made publicly available on FBO within 14 days after contract award. Any proposals that are received shall be evaluated.

7. Actions to Increase Competition: The Government will continue to conduct market research, review, and revalidate its requirements as primary care/behavioral health care software applications continue to evolve. VA will continue to monitor whether alternate software maintenance and technical support emerge that can meet its needs, or whether CSD will someday apply an open source license to the software code, which would allow for other vendors to potentially maintain the code base and build up the technical ability to also provide technical support to users.

8. Market Research: In April 2016, market research was conducted by the Government's technical experts via internet research and review of industry publications to identify if there are other service providers or health care software vendors with products capable of providing similar capabilities. Market research revealed that MidasPlus, Inc. and General Electric Company offer health care software solutions that potentially could replace CSD's BHL software, but such solutions cannot meet VA's current requirement for software maintenance and technical support needs because these contractors cannot access the source code and technical data of the VA's current proprietary CSD BHL solution. Each software developer offers a proprietary system and associated services that will only operate with its respective software.

Additional market research was conducted in June 2016 to ascertain the ability of any other source other than CSD to provide the aforementioned BHL software updates, patches, fixes, security resolutions, and help desk services. On June 7, 2016 a Request for Information (RFI) was posted on FBO to determine whether there were any authorized resellers that could provide the required CSD BHL software maintenance and technical support. On June 14, 2016 the RFI closed and four companies responded. Three of the four respondents, Accessible Tech, Inc., Central Business Corporation, and RV Global Solutions, Inc., submitted corporate capabilities information on providing software information technology services, but did not state that they had the ability to provide the required brand name CSD BHL software maintenance and technical support to meet the Government's requirements. Only July 22, 2016, the Government contacted Accessible Tech, Inc., Central Business Corporation, and RV Global Solutions, Inc. via email to state that they were determined to be not capable of providing the software maintenance and technical support due to the services being a proprietary CSD BHL solution, to which the Government has received no responses. CSD, one of the four respondents, provided documentation stating that there are no other vendors that can provide the CSD BHL software updates, patches, fixes, security resolutions, and help desk services due to CSD's intellectual property rights. Based on this market research, CSD is the only responsible source that can provide the requisite BHL software maintenance and technical support.

9. Other Facts: None.